



Salish Kootenai College

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EXHIBIT 9
DATE 1-22-13
HB Montana University System

January 22, 2013

The Honorable Roy Hollandsworth, Chairman
Joint Subcommittee on Education
Montana House of Representatives
PO Box 200400
Helena, MT 59620-0400

Re: Non-Beneficiary Funding for Montana Tribal Colleges for the 2015 Biennium

Dear Mr. Chairman:

I write regarding the executive branch's proposed funding level for Montana tribal colleges for non-beneficiary (NB) students for the 2015 biennium. We are vitally concerned that the executive's proposed funding level is insufficient and portends to visit negative impacts on Montana's seven tribal colleges (TCUs) and their students for the 2015 biennium and beyond.

Executive Summary The tribal colleges ask the Legislature to add \$174,442 per each fiscal year (FY 2014 and FY 2015) of the 2015 Biennium, or a total of \$348,884 to the Tribal College Assistance Program line-item. This amount is based on the statutory maximum of \$3,024 per NB student, with 339.46 nonbeneficiary students expected to attend tribal colleges each year of the Biennium, as projected by the executive branch and tribal colleges.

Insufficient Statewide Tribal College Funding: Cause and Effects As noted, the statutory maximum for funding each full-time non-beneficiary student is \$3,024. During the four year period (Fiscal Years 2008-2011), TCUs were funded at \$3,024 maximum level, which the Office of the Commissioner of Higher Education (OCHE) actively and enthusiastically advanced. However, with respect to FY 2012, the executive reduced the non-beneficiary funding level to \$2,481 per FTE (actually \$2,480.66), which is a \$543 cut (18%) from the statutorily authorized amount of \$3,024 appropriated for FYs 2008-2011. Also as noted above, this reduced FTE amount leaves Montana's tribal colleges \$174,442 short for fiscal years 2014 and 2015, or \$348,884 for the 2015 biennium. We are hopeful that OCHE will support this modest tribal college request.

TCU Nonbeneficiary Funding for the 2015 Biennium

The Problem It warrants emphasis that OCHE has forecast that TCU NB student enrollment will remain constant at 339.46 FTEs per year, and at \$2,481 per each NB student, will generate the inadequate amount of \$842,085 annually. We are unable

to identify any rational basis for this significant cut. Rather, it appears to be arbitrary without tenable justification and set in stone for the next three fiscal years and likely beyond. **The major source of the problem is that the authorizing statute (MT 20-25-248) vests the Regents with complete unbridled discretion to set the "line item appropriation" amount for NB student assistance, up to the statutory limit of \$3,024 per student. As such, the Regents are at liberty to set the tribal college appropriation amount at any level they choose, and still be in compliance with MT 20-25-248. In short, tribal colleges are at the ongoing mercy of the executive.**

The Solution In the short term, (2015 Biennium), the Legislature should take action to increase the "Average State Funds per Nonbeneficiary Student" to the currently authorized statutory maximum of \$3,024. In the longer term, the Legislature should amend MT 20-25-248, the NB enabling statute, by repealing the \$3,024 per NB student as the maximum amount, and replacing it with a minimum amount that is fair, equitable, and reasonable. Such minimum amount should take into consideration that it costs tribal colleges up to \$9,200 per year to educate a single student. To put tribal colleges on an equal footing with the more powerful Regents and OCHE, the minimum amount should be realistic, fair, and equitable, and a product of meaningful consultation between the tribal colleges, OCHE, and/or the Regents.

Amount of Reduced Funds Based on the Executive's 2015 Biennium Budget As in FY's 2008-2011, in all fairness the Legislature should restore TCU NB funding to the statutorily authorized level of \$3,024 per FTE. Based on 339.46 FTEs as projected in the executive budget, the total appropriation for one fiscal year should be \$1,026,527, or \$2,053,054 for the 2015 biennium. However, based on the reduced \$2,480.66 per FTE, the annual fiscal year allocation (FY 2014 and FY 2015) would be limited to \$842,085 based on the governor's projection of 339.46 NB FTEs, or \$1,684,170 for the 2015 Biennium.

In summary, the math is straight forward and clearly shows that the seven tribal colleges are asking comparatively very little to bring the NB allocation to the current statutory maximum level of \$3,024 per NB student. With respect to total amounts, 339.46 NB FTEs at \$3,024 per FTE would produce an annual appropriation of \$1,026,527. This leaves the TCUs short by \$174,442 each year for FY 2014 and 2015 ($\$1,026,527 - \$842,085 = \$174,442$), or \$348,884 short for the 2015 biennium ($\$174,442 \times 2 = \$348,884$). In short, in the interest of fairness and equity, Montana tribal colleges need the Appropriations Committee and Legislature to restore the NB funding level at the statutorily authorized amount of \$3,024 per FTE for 339.46 FTEs, and add \$348,884 to the tribal college assistance line-item for the 2015 biennium.

Salish Kootenai College is Hit the Hardest The Commissioner of Higher Education's April 26, 2012 letter to tribal college presidents shows that of 339.46 projected NB FTE's for FY 2012 [and actually through the 2015 biennium], 240 are attributed to Salish Kootenai College. This is 71% of all NB FTEs attending the seven Montana tribal

colleges. SKC is accordingly hit the hardest with respect to the \$543 reduction (18%) in NB funds from \$3,024 to \$2,480.66. Based on the proposed unacceptable reduced NB appropriation of \$2,480.66 per student, SKC would realize only \$595,358 each fiscal year of the 2015 Biennium. In comparison, at the statutory maximum of \$3,024 per student, SKC would realize \$725,760 each fiscal year. The difference is \$130,402 per fiscal year, or \$260,804 for the 2015 Biennium. **Salish Kootenai College emphasizes that the \$260,804 it seeks to have added to the Tribal College Assistance Program line-item is part of, i.e., not in addition to, the total \$348,884 that the seven tribal colleges seek to have added to the executive budget.**

The Gross Funding Inequity between Tribal Colleges and the Three State Community Colleges In the 2015 biennium budget, the executive applied a statutory formula for the three community colleges that included a 9.3% increase, notwithstanding that student enrollment at the community colleges is projected to decline in the 2015 biennium. (Page E-78, 5102 Commissioner of Higher ED). The above realities underscore the patent unfairness of the executive budget with respect to tribal colleges compared to the three state community colleges. As set forth in the executive budget, tribal college enrollment is expected to increase by 24% through the 2015 biennium with no budget increase, whereas the three state colleges' budgets will be increased by 9.3%, notwithstanding that student enrollment is projected to decline in the 2015 biennium. This data shows that tribal colleges are forced to function on an uneven playing field and are accordingly at a severe disadvantage in relation to the state's more powerful community colleges in the budgeting process. Thus, the operative rule of thumb here is that non-tribal community college budgets will increase if there is a drop in enrollment, but if there is an increase in enrollment, tribal college budgets will be decreased. This gross inequity requires immediate good faith and effective attention and change if fairness and justice are to prevail in higher education in the State of Montana. We respectfully urge the Montana Legislature to promptly address and resolve this repugnant ongoing injustice that has prejudiced tribal colleges and their students.

In closing, I wish to thank members of the Joint Subcommittee on Education and all Members of the Legislature for considering what we believe to be a very reasonable, modest budget request, and a workable proposed solution to achieve equity in the higher education budgeting process.

If you have any questions or need further information, may I suggest you get in touch with my colleague Dr. Robert Peregoy at 275-4976, or by email at robert_peregoy@skc.edu.

Very truly yours,



Joseph F. McDonald, Ed.D.
President Emeritus

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2012	Approp. Fiscal 2013	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 12-13	Biennium Fiscal 14-15	Biennium Change	Biennium % Change
Grants	842,085	842,085	842,085	842,085	1,684,170	1,684,170	0	0.00%
Total Costs	\$842,085	\$842,085	\$842,085	\$842,085	\$1,684,170	\$1,684,170	\$0	0.00%
General Fund	842,085	842,085	842,085	842,085	1,684,170	1,684,170	0	0.00%
Total Funds	\$842,085	\$842,085	\$842,085	\$842,085	\$1,684,170	\$1,684,170	\$0	0.00%

Program Description

The Tribal College Assistance program provides funding to tribal colleges to support a portion of the costs of educating non-beneficiary Montana students (non-tribal members) attending the seven tribal community colleges on the reservations in Montana. Section 20-25-428, MCA requires the Board of Regents to provide assistance to tribal colleges "subject to a line item appropriation" by the legislature, up to a maximum of \$3,024 per year for each nonbeneficiary student FTE.

Program Highlights

Tribal College Assistance Major Budget Highlights	
♦	This program is funded entirely from general fund
♦	The executive budget would provide level funding from the 2013 biennium to the 2015 biennium
♦	Non-beneficiary enrollment reported by the tribal colleges increased 24% from FY 2010 to FY 2012 and is projected by the executive to remain at the elevated level through the 2015 biennium

Funding

The following table shows program funding, by source for the 2015 biennium as recommended by the Governor.

Total Commissioner Of Higher Education Funding by Source of Authority 2015 Biennium Budget - Tribal College Assistance Pgm							
Funds	HB 2	Non- Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds	MCA Reference	Statutory Category
General Fund	\$1,684,170	\$0	\$0	\$1,684,170	100.0%		
Total All Funds	\$1,684,170	\$0	\$0	\$1,684,170	100.0%		
Percent - Total All Sources	100.0%	0.0%	0.0%				

Funding is entirely from the state general fund. The executive budget provides the same amount of funding in the 2015 biennium as the HB 2 appropriation in the 2013 biennium.

**LFD
COMMENT**

This table illustrates a recent history of actual program expenditures, the Governor's recommendations for the 2015 biennium, and the changes in average state funds per nonbeneficiary student over the same time horizon.

State Assistance for Montana Tribal Community Colleges FY 2006 through FY 2015					
Fiscal Year	Number of Nonbeneficiary Montana Students Reported*	State Funds Distributed for Nonbeneficiary Students			Average State Funds per Nonbeneficiary Student
		One-Time	On-Going	Total	
FY 2006 Actual	298.11	\$80,183	\$400,000	\$480,183	\$1,611
FY 2007 Actual	307.87	419,817	0	\$419,817	\$1,364
FY 2008 Actual	301.39	461,401	450,002	\$911,403	\$3,024
FY 2009 Actual	312.02	493,548	450,000	\$943,548	\$3,024
FY 2010 Actual	273.13	384,944	441,002	\$825,946	\$3,024
FY 2011 Actual	278.56	515,056	327,309	\$842,365	\$3,024
FY 2012 Actual	339.46	0	842,085	\$842,085	\$2,481
FY 2013 Estimated	339.46	0	842,085	\$842,085	\$2,481
FY 2014 Executive Budget	339.46	0	842,085	\$842,085	\$2,481
FY 2015 Executive Budget	339.46	0	842,085	\$842,085	\$2,481

*FY 2013-2015 Number of Nonbeneficiary Montana Students are estimated
 **Per Section 20-25-428, MCA there is a maximum distribution of \$3,024 per nonbeneficiary student per year

As shown, the average state funds per student distributed to the Tribal Colleges decreased in FY 2012 and would stay at the reduced level throughout the 2015 biennium if the nonbeneficiary student enrollment remains at or close to the FY 2012 level.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget
Base Budget	842,085	842,085	1,684,170	100.00%	842,085	842,085	1,684,170	100.00%
Statewide PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$842,085	\$842,085	\$1,684,170		\$842,085	\$842,085	\$1,684,170	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

April 26, 2012

Tribal College Presidents

Thank you for your assistance in providing the information needed to calculate the distribution for non-beneficiary students. Montana statute limits the total amount of reimbursement to the amount appropriated by the legislature. For Fiscal Year 2012, the amount appropriated is \$842,085. As a result, the reimbursement per student FTE needs to be prorated and is calculated at \$2,480.66 per Non-beneficiary FTE reported.

The Board of Regents is extremely pleased to have the opportunity to partner with Tribal Colleges in providing financial support for the non-beneficiary students attending your institution of higher learning.

A summary of the distribution for each Tribal College is presented below. Please contact Mick Robinson, Deputy Commissioner for Fiscal Affairs, if you have questions.

FY12 Non-beneficiary Student Distribution Tribal Colleges		
College	Non-beneficiary FTE Reported	Prorated Amount @\$2,480.66/FTE
Aaniih Nakoda College	12.00	\$ 29,768
Blackfeet Community College	14.63	\$ 36,292
Chief Dull Knife College	9.30	\$ 23,070
Fort Peck Community College	28.23	\$ 70,029
Little Big Horn College	13.87	\$ 34,407
Salish Kootenai College	240.00	\$ 595,358
Stone Child College	21.43	\$ 53,161
Total	339.46	\$ 842,085

Sincerely,

Clayton T. Christian
Commissioner of Higher Education

June 13, 2011

Tribal College Presidents

Thank you for your assistance in providing the information needed to calculate the distribution for non-beneficiary students. Montana statute limits the amount of reimbursement per FTE to \$3024 per year. As presented below, the total Fiscal Year 2011 distribution to Tribal Colleges amounts to \$842,365.

The Board of Regents is extremely pleased to have the opportunity to partner with Tribal Colleges in providing financial support for the non-beneficiary students attending your institution of higher learning.

A summary of the distribution for each Tribal College is presented below. Please contact Mick Robinson, Deputy Commissioner for Fiscal Affairs, if you have questions.

FY11 Non-beneficiary Student Distribution Tribal Colleges		
College	Non-beneficiary FTE Reported	Calculated Amount @\$3024/FTE
Blackfeet Community College	8.17	\$24,706
Chief Dull Knife College	None reported	\$0
Fort Belknap College	18.27	\$55,248
Fort Peck Community College	42.55	\$128,671
Little Big Horn College	8.07	\$24,404
Salish Kootenai College	191.00	\$577,584
Stone Child College	10.50	\$31,752
Total	278.56	\$842,365

Sincerely,

Sheila Stearns
Commissioner of Higher Education

June 10, 2010

Tribal College Presidents

Thank you for your assistance in providing the information needed to calculate the distribution for non-beneficiary students. Montana statute limits the amount of reimbursement per FTE to \$3024 per year. As presented below, the total Fiscal Year 2010 distribution to the seven Tribal Colleges amounts to \$825,946.

The Board of Regents is extremely pleased to have the opportunity to partner with Tribal Colleges in providing financial support for the non-beneficiary students attending your institution of higher learning.

A summary of the distribution for each Tribal College is presented below. Please contact Mick Robinson, Deputy Commissioner for Fiscal Affairs, if you have questions.

FY10 Non-beneficiary Student Distribution Tribal Colleges		
College	Non-beneficiary FTE Reported	Calculated Amount @\$3024/FTE
Blackfeet Community College	30.20	\$91,325
Chief Dull Knife College	5.73	\$17,328
Fort Belknap College	14.73	\$44,544
Fort Peck Community College	46.30	\$140,011
Little Big Horn College	9.10	\$27,518
Salish Kootenai College	158.00	\$477,792
Stone Child College	9.07	\$27,428
Total	273.13	\$825,946

Sincerely,

Sheila Stearns
Commissioner of Higher Education

C: Mick Robinson
Kassandra Murphy-Brazill

June 22, 2009

Tribal College Presidents

Thank you for your assistance in providing the information needed to calculate the distribution for non-beneficiary students. As you will recall, the 2007 Legislature authorized a \$1,914,000 biennial appropriation for distribution to the tribal colleges for support of non-beneficiary students. The amount per FTE is limited to \$3024 per year. The total distribution amount for Fiscal Year 2008 amounted to \$911,403 leaving a balance of \$1,002,597 available for distribution in Fiscal Year 2009.

The Board of Regents is extremely pleased to have the opportunity to partner with Tribal Colleges in providing financial support for the non-beneficiary students attending your institution of higher learning.

We have included below a summary of the distribution for each tribal college. Please contact Mick Robinson, Deputy Commissioner for Fiscal Affairs, if you have questions.

FY09 Non-beneficiary Student Distribution Tribal Colleges		
College	Non-beneficiary FTE Reported	Calculated Amount @\$3024/FTE
Blackfeet Community College	36.10	\$109,166
Chief Dull Knife College	8.87	\$26,823
Fort Belknap College	11.33	\$34,262
Fort Peck Community College	48.15	\$145,606
Little Big Horn College	6.10	\$18,446
Salish Kootenai College	192.00	\$580,608
Stone Child College	9.47	\$28,637
Total	312.02	\$943,548

Sincerely,

Sheila Stearns
Commissioner of Higher Education

C: Mick Robinson
Ellen Swaney

C

West's Montana Code Annotated Currentness

Title 20. Education

Chapter 25. University System

Part 4. Miscellaneous Finance

→ → **20-25-428. Financial assistance for resident nonbeneficiary students**

(1) Subject to a line item appropriation for purposes of this section, the regents shall provide financial assistance to tribally controlled community colleges for enrolled resident nonbeneficiary students who, except as provided in subsection (8), are taking courses for which credit is transferable to another Montana college or university.

(2) Each tribal community college shall apply for this assistance to the regents. Except as provided in subsection (6), the money must be distributed on a prorated basis according to the eligible resident nonbeneficiary student enrollment in each tribal community college during the previous year. To qualify, a resident nonbeneficiary student must meet the residency requirements as prescribed for the system by the regents and, except as provided in subsection (8), must be enrolled in courses for which credit is transferable to another Montana college or university. The distribution for any student is limited to a maximum of \$3,024 each year for each full-time equivalent student.

(3) An expenditure is contingent upon the tribal community college:

(a) being accredited or being a candidate for accreditation by the northwest commission on colleges and universities;

(b) entering into a contract or a state-tribal cooperative agreement, pursuant to Title 18, chapter 11, with the regents to provide the regents with information relating to eligibility of resident nonbeneficiary students and documentation on the curriculum to ensure that the content and quality of courses offered by the tribal community college are consistent with the standards adopted by the system;

(c) providing the regents with documentation that credits for the courses in which the resident nonbeneficiary students are enrolled, except as provided in subsection (8), will be accepted at another Montana college or university; and

(d) filing with the regents evidence that the college's enrollment of Indian students is at least 51%, as required by the Tribally Controlled Community College Assistance Act of 1978, 25 U.S.C. 1804.

(4) If funding is available pursuant to subsection (1), the legislature intends that the money be an amount in addition to the system budget approved in the general appropriations act.

(5) All funds appropriated under subsection (1) that are unspent revert to the state general fund.

(6) Prior to receiving money pursuant to subsection (1), each tribal community college shall grant to eligible resident nonbeneficiary students who meet the residency requirements, as prescribed for the system by the regents, fee waivers in the same percentage as the number of Indian students who are receiving fee waivers to attend a unit of the system bears to the total enrollment in the system.

(7) The calculation in subsection (6) is not intended to allow the university system to retain the calculated amount of funds. Waivers must be given to eligible students.

(8) The limit of financial assistance to nonbeneficiary students is limited to students enrolled in courses for which credit is transferable to another Montana college or university.

CREDIT(S)

Enacted by Laws 1997, ch. 362, § 1. Amended by Laws 2005, ch. 147, § 1; amended by Laws 2007, ch. 255, § 1.

LIBRARY REFERENCES

Indians  140.

Westlaw Key Number Search: 209k140.

MCA 20-25-428, MT ST 20-25-428

Statutes are current with all 2011 laws, 2011 Code Commissioner changes, and 2010 ballot measures.

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